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BY EMAIL

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The Honorable Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

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Re: *Kickstarter, Inc. v. ArtistShare, Inc. and Fan Funded, LLC*,
11-cv-6909 (S.D.N.Y.)

Dear Judge Failla:

ArtistShare, Inc. and Fan Funded, LLC (collectively “ArtistShare”) submit this letter in response to Kickstarter’s letter of July 16th.

I was surprised that Kickstarter’s counsel submitted his letter to the Court without contacting me first. The issues raised in Kickstarter’s letter have been discussed between the parties and ArtistShare believed that they were resolved. Indeed, shortly after receiving Kickstarter’s letter, I sent an email to Kickstarter’s counsel to confirm the resolution of any dispute. My email confirmed that ArtistShare had already produced the documents requested by Kickstarter and that ArtistShare would supplement its interrogatory responses this week. Kickstarter’s counsel did not respond to my email until this afternoon and refuses to withdraw its letter to the Court.

ArtistShare is a small company founded and run by Brian Camelio. Despite the fact that Kickstarter served numerous document requests on ArtistShare during the litigation, Kickstarter’s new counsel duplicated many of these requests by serving a subpoena on Mr. Camelio. We objected to the subpoena, but agreed to produce any additional, relevant documents. On July 10th, we produced additional documents and made available for inspection computer source code. Kickstarter’s counsel never responded to this letter; nor did it mention these documents in its letter to the Court. In short, Kickstarter has the documents that it now complains about.

The parties have discussed supplementing their interrogatory responses, and ArtistShare agreed to supplement its interrogatories after producing the additional documents requested by Kickstarter. As mentioned in my email to Kickstarter’s counsel, we supplemented ArtistShare’s interrogatory responses today.

Kickstarter also needed to supplement its interrogatory responses. It did so, for the first time, on July 16th – the same day that Kickstarter submitted its letter to the Court, complaining that ArtistShare had not supplemented its interrogatories. Unfortunately, Kickstarter's supplemental responses provided no supplemental information.

Accordingly, ArtistShare believes that the parties have already addressed the issues raised in Kickstarter's letter and, therefore, there is no dispute that requires the Court's attention.

Yours truly,



Craig R. Smith

cc: All counsel of record